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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH—NORTHERN DIVISION**

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DAVID WEBB,

Plaintiff,

v.

OGDEN CITY MAYOR MICHAEL  
CALDWELL, et al.

Defendants.

**ORDER**

**ADOPTING REPORT AND  
RECOMMENDATION (DKT. 2)**

**AND DENYING MOTIONS FOR LEAVE  
TO AMEND (DKTS. 5 AND 9)**

Case No. 1:15-cv-0059-RJS

Honorable Robert J. Shelby

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Plaintiff David Webb, acting pro se, instigated this case on April 14, 2015 when he filed a Motion to Proceed in Forma Pauperis. (Dkt. 1.) Webb's Motion was referred to Magistrate Judge Dustin Pead. (*Id.*) Judge Pead reviewed both Webb's Motion and the Complaint Webb proposed filing with the court if his Motion were granted. On April 28, 2015, Judge Pead issued a Report and Recommendation (Dkt. 2) that this court: 1) dismiss Webb's proposed Complaint without prejudice pursuant to 28 U.S.C. § 1915(e) because it fails to state a claim upon which relief may be granted; 2) deny Webb's Motion; and 3) order Webb to show cause why he should not be placed on the list of restricted filers in the District of Utah. On May 5, 2015, Webb timely filed an Objection to Judge Pead's Report and Recommendation. (Dkt. 3.)

The court has carefully reviewed Judge Pead's Report and Recommendation, Webb's Objection, and the other filings in the case. The court concludes Judge Pead's Recommendations are well-taken under the applicable legal authorities, including 28 U.S.C. § 1915, and adopts them in full. Webb's Objections are overruled.

The court therefore ORDERS as follows:

- 1) Webb's Motion (Dkt. 1) is DENIED for the reasons set forth in Judge Pead's Report and Recommendation;
- 2) Webb shall have ten (10) days from the date of this Order to file a written opposition demonstrating that there is a good reason why the court should not impose the following restrictions on Webb's future pro se filings with the court:
  - a. The Clerk of the Court will collect any new civil complaint submitted by Mr. Webb in a case in which he seeks to proceed in forma pauperis and forward it to a magistrate judge for review.
  - b. The magistrate judge will review the complaint to determine whether it is meritless, duplicative, malicious, or frivolous.
  - c. If the magistrate judge determines the complaint lacks merit, duplicates prior filings, is malicious, or is frivolous, the magistrate judge will forward the complaint to the Chief District Judge for final review.
  - d. If on review the Chief District Judge determines the complaint has merit, it will be filed. Otherwise, it will be returned to Plaintiff without filing.

If Webb chooses not to file an opposition to these restrictions, they will take effect within twenty (20) days from the date of this Order. Even if these restrictions are imposed, however, they will not apply to any case in which Webb pays the full amount of the ordinary filing fee or has an attorney representing him.

- 3) Webb's proposed Complaint is DISMISSED;<sup>1</sup>
- 4) In light of the court's Order, Webb's two pending Motions for Leave to File

Amended Complaints are DENIED. (Dkts. 5 and 9.) There is no operative

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<sup>1</sup> Webb's proposed Complaint was not previously entered on the court's docket because Webb did not pay the required filing fee and his Motion for Leave to Proceed in Forma Pauperis was not granted. For the sake of a complete record, however, the initial proposed Complaint is attached as Exhibit A to this Order, although it is not operative in this case.

Complaint to Amend at this time. This ruling does not foreclose an operative Complaint may be filed in this action in the future—either after the issue of whether the court will impose restrictions on Webb’s ability to file pro se is resolved, or by Webb’s filing a Complaint with an attorney representing him or paying the full amount of the ordinary filing fee.

SO ORDERED this 4th day of September, 2015.

BY THE COURT:



Robert J. Sherry  
United States District Court Judge